

BILL HISTORY FOR ASSEMBLY BILL 409 (LRB -2860)

An Act to repeal 66.293 (1) (h); to renumber and amend 66.293 (4) (b), 103.49 (2m) (b) and 103.50 (2m) (b); to amend 66.293 (3) (am), 66.293 (3) (ar), 66.293 (3) (bm), 66.293 (3) (br), 66.293 (3) (dm), 66.293 (4) (a) (intro.), 66.293 (4) (a) 1., 66.293 (8), 66.293 (9) (c), 66.293 (10) (a), 66.293 (10) (b), 66.293 (10) (c), 66.293 (10) (d), 66.293 (11) (a), 66.293 (11) (b) 2., 66.293 (11) (b) 4., 66.293 (11) (b) 6., 66.293 (12) (a), 66.293 (12) (b), 66.293 (12) (d), 103.49 (1) (c) (intro.), 103.49 (1) (d), 103.49 (2), 103.49 (2m) (a) (intro.), 103.49 (2m) (a) 1., 103.49 (3) (a), 103.49 (3) (am), 103.49 (3) (ar), 103.49 (3) (b), 103.49 (3) (c), 103.49 (3g), 103.49 (4r) (c), 103.49 (5) (a), 103.49 (5) (b), 103.49 (5) (c), 103.49 (6m) (b), 103.49 (6m) (d), 103.49 (6m) (f), 103.49 (7) (a), 103.49 (7) (b), 103.49 (7) (d), 103.50 (2), 103.50 (2m) (a) (intro.), 103.50 (2m) (a) 1., 103.50 (3), 103.50 (4), 103.50 (5), 103.50 (6), 103.50 (7) (b), 103.50 (7) (d), 103.50 (7) (e), 103.50 (7) (f), 103.50 (8) and 227.01 (13) (t); and to create 66.293 (4) (b) 1. and 2., 103.49 (2m) (b) 1. and 2. and 103.50 (2m) (b) 1. and 2. of the statutes; relating to: the coverage of the prevailing wage and hours of labor law, the definition of prevailing hours of labor, the determination of prevailing wage rates and granting rule-making authority. (FE)

1999

07-08.	A.	Introduced by Representatives Vrakas, Turner, Nass, Bock, Owens, Schooff, M. Lehman, Plouff, Musser, Pocan, Gunderson, Berceau, Huebsch and Brandemuehl ; cosponsored by Senators Baumgart, Wirch, Grobschmidt and Erpenbach , by request of Department of Workforce Development.	
07-08.	A.	Read first time and referred to committee on Labor and Employment	279
07-12.	A.	Fiscal estimate received.	
10-20.	A.	Public hearing held.	
11-02.	A.	Executive action taken.	
11-02.	A.	Report passage recommended by committee on Labor and Employment, Ayes 10, Noes 0	487
11-02.	A.	Referred to committee on Rules	487
11-02.	A.	Placed on calendar 11-4-1999 by committee on Rules.	
11-04.	A.	Read a second time	517
11-04.	A.	Ordered to a third reading	517
11-04.	A.	Rules suspended	517
11-04.	A.	Read a third time and passed	517
11-04.	A.	Ordered immediately messaged	517
11-09.	S.	Received from Assembly	331
11-09.	S.	Read first time and referred to committee on Labor	331
11-09.	S.	Executive action taken.	
11-10.	S.	Report concurrence recommended by committee on Labor, Ayes 5, Noes 0	337
11-10.	S.	Available for scheduling.	

2000

03-07.	S.	Read a second time	475
03-07.	S.	Ordered to a third reading	475
03-07.	S.	Rules suspended	475
03-07.	S.	Read a third time and concurred in	475
03-07.	S.	Ordered immediately messaged	476
03-08.	A.	Received from Senate concurred in.	

**1999
ENROLLED BILL**

99en AB-409

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr SubAmdt

99 - 28601 2

Amendments to above (if none, write "NONE"):

None

Corrections - show date (if none, write "NONE"):

None

Topic

Prevailing wage and hours
and of labor law

3/8/00
Date

John J. Kuman
Enrolling Drafter

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1999 ASSEMBLY BILL 409

July 8, 1999 – Introduced by Representatives VRAKAS, TURNER, NASS, BOCK, OWENS, SCHOOFF, M. LEHMAN, PLOUFF, MUSSER, POCAN, GUNDERSON, BERCEAU, HUEBSCH and BRANDEMUEHL, cosponsored by Senators BAUMGART, WIRCH, GROBSCHMIDT and ERPENBACH, by request of Department of Workforce Development. Referred to Committee on Labor and Employment.

1 **AN ACT** *to repeal* 66.293 (1) (h); *to renumber and amend* 66.293 (4) (b), 103.49
2 (2m) (b) and 103.50 (2m) (b); *to amend* 66.293 (3) (am), 66.293 (3) (ar), 66.293
3 (3) (bm), 66.293 (3) (br), 66.293 (3) (dm), 66.293 (4) (a) (intro.), 66.293 (4) (a) 1.,
4 66.293 (8), 66.293 (9) (c), 66.293 (10) (a), 66.293 (10) (b), 66.293 (10) (c), 66.293
5 (10) (d), 66.293 (11) (a), 66.293 (11) (b) 2., 66.293 (11) (b) 4., 66.293 (11) (b) 6.,
6 66.293 (12) (a), 66.293 (12) (b), 66.293 (12) (d), 103.49 (1) (c) (intro.), 103.49 (1)
7 (d), 103.49 (2), 103.49 (2m) (a) (intro.), 103.49 (2m) (a) 1., 103.49 (3) (a), 103.49
8 (3) (am), 103.49 (3) (ar), 103.49 (3) (b), 103.49 (3) (c), 103.49 (3g), 103.49 (4r) (c),
9 103.49 (5) (a), 103.49 (5) (b), 103.49 (5) (c), 103.49 (6m) (b), 103.49 (6m) (d),
10 103.49 (6m) (f), 103.49 (7) (a), 103.49 (7) (b), 103.49 (7) (d), 103.50 (2), 103.50
11 (2m) (a) (intro.), 103.50 (2m) (a) 1., 103.50 (3), 103.50 (4), 103.50 (5), 103.50 (6),
12 103.50 (7) (b), 103.50 (7) (d), 103.50 (7) (e), 103.50 (7) (f), 103.50 (8) and 227.01
13 (13) (t); and *to create* 66.293 (4) (b) 1. and 2., 103.49 (2m) (b) 1. and 2. and
14 103.50 (2m) (b) 1. and 2. of the statutes; **relating to:** the coverage of the

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- 1 prevailing wage and hours of labor law, the definition of prevailing hours of
2 labor, the determination of prevailing wage rates and granting rule-making
3 authority.
-

Analysis by the Legislative Reference Bureau

Under current law, certain employees performing work on a state or local public works project must be paid the prevailing wage rate and may not be permitted to work a greater number of hours per day and per week than the prevailing hours of labor, unless they are paid overtime pay for all hours worked in excess of the prevailing hours of labor. Current law defines “prevailing hours of labor” as no more than ten hours per day nor more than 40 hours per week. This bill defines “prevailing hours of labor” as exactly ten hours per day and 40 hours per week. Because the prevailing hours of labor are fixed by statute, the bill deletes numerous references to the department of workforce development (DWD) determining the prevailing hours of labor as was the practice under prior law.

Currently, laborers, workers, mechanics and truck drivers employed on the site of a public works project, employed to deliver mineral aggregate to or from the site of a public works project or employed to transport excavated material from and return to the site of a public works project are covered under the prevailing wage and hours law, except that a laborer, worker, mechanic or truck driver employed in the processing, manufacturing or delivery of materials or products by or for a commercial establishment that has a fixed place of business from which it regularly supplies those materials or products is not covered under the prevailing wage and hours law. This bill provides that a laborer, worker, mechanic or truck driver who is employed to process, manufacture, pick up or deliver materials or products from such a commercial establishment is not covered under the prevailing wage and hours law unless the person is employed to go to the source of mineral aggregate, pick up that mineral aggregate and deliver that mineral aggregate to the site of a public works project or is employed to go to the site of a public works project, pick up excavated material or spoil from the site of the project and transport that excavated material or spoil away from the site of the project.

Under current law, DWD must, by January 1 of each year, determine the prevailing wage rates for each trade or occupation in each area of the state. Currently, in determining prevailing wage rates for local public works projects, DWD may not use data from projects that are subject to the state prevailing wage and hours law or the federal Davis–Bacon Act, unless there is insufficient wage data in an area to determine prevailing wage rates. In determining prevailing wage rates for state building, residential or agricultural projects, DWD may not use data from projects that are subject to the state prevailing wage and hours law or the federal Davis–Bacon Act even if there is insufficient wage data in an area to determine prevailing wage rates. In determining prevailing wage rates for state projects involving the use of heavy equipment, however, DWD may use such data. This bill

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eliminates the separate method for determining prevailing wage rates for projects involving the use of heavy equipment and permits DWD, in determining prevailing wage rates for state public works projects, to use data from projects that are subject to the state prevailing wage and hours law or the federal Davis–Bacon Act if there is insufficient wage data in an area to determine prevailing wage rates.

Finally, under current law, any person may request a recalculation or a review of a prevailing wage rate determination if the person submits evidence, including wage rate information for work performed within the previous 12 months, showing that the prevailing wage rate determined by DWD does not reflect the actual prevailing wage rate in the area of the project. This bill changes the wage rate information that must be submitted with a request for recalculation or review to wage rate information for work performed during DWD's current survey period.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.293 (1) (h) of the statutes is repealed.

2 **SECTION 2.** 66.293 (3) (am) of the statutes is amended to read:

3 66.293 (3) (am) Every local governmental unit, before making a contract by
4 direct negotiation or soliciting bids on a contract, for the erection, construction,
5 remodeling, repairing or demolition of any project of public works, including a
6 highway, street or bridge construction project, shall apply to the department to
7 determine the prevailing wage rate ~~and prevailing hours of labor~~ for each trade or
8 occupation required in the work contemplated. The department shall ~~make~~ conduct
9 such investigations and hold such public hearings as may be necessary to define the
10 trades or occupations that are commonly employed on projects that are subject to this
11 section and to inform itself as to the prevailing wage rates ~~and prevailing hours of~~
12 ~~labor~~ in all areas of the state for those trades or occupations ~~with a view to~~
13 ~~ascertaining in order to determine~~ the prevailing wage rate ~~and prevailing hours of~~
14 ~~labor~~ for each such trade or occupation. The department shall issue its

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1 determination within 30 days after receiving the request and shall file the same with
2 the local governmental unit applying therefor.

3 **SECTION 3.** 66.293 (3) (ar) of the statutes is amended to read:

4 66.293 (3) (ar) The department shall, by January 1 of each year, compile the
5 prevailing wage rates ~~and the prevailing hours of labor~~ for each trade or occupation
6 in each area. The compilation shall, in addition to the current prevailing wage rates
7 ~~and prevailing hours of labor~~, include future prevailing wage rates ~~and prevailing~~
8 ~~hours of labor~~ when those prevailing wage rates ~~and prevailing hours of labor~~ can
9 be determined for any trade or occupation in any area and shall specify the effective
10 date of those future prevailing wage rates ~~and prevailing hours of labor~~. If a
11 construction project extends into more than one area there shall be but one standard
12 of prevailing wage rates ~~and prevailing hours of labor~~ for the entire project.

13 **SECTION 4.** 66.293 (3) (bm) of the statutes is amended to read:

14 66.293 (3) (bm) Any person may request a recalculation of any portion of a an
15 initial determination within 30 days after the initial determination date if the person
16 submits evidence with the request showing that the prevailing wage rate ~~or~~
17 ~~prevailing hours of labor~~ for any given trade or occupation included in the initial
18 determination does not represent the prevailing wage rate ~~or prevailing hours of~~
19 ~~labor~~ for that trade or occupation in the area. Such evidence shall include wage rate
20 ~~and hours of labor~~ information for reflecting work performed by persons working in
21 the contested trade or occupation in the area within the previous 12 months during
22 the current survey period. The department shall affirm or modify the initial
23 determination within 15 days after the date on which the department receives the
24 request for recalculation.

25 **SECTION 5.** 66.293 (3) (br) of the statutes is amended to read:

1 66.293 (3) (br) In addition to the recalculation under par. (bm), the local
2 governmental unit that requested the determination under this subsection may
3 request a review of any portion of a determination within 30 days after the date of
4 issuance of the determination if the local governmental unit submits evidence with
5 the request showing that the prevailing wage rate ~~or prevailing hours of labor~~ for any
6 given trade or occupation included in the determination does not represent the
7 prevailing wage rate ~~or prevailing hours of labor~~ for that trade or occupation in the
8 city, village or town in which the proposed project is located. That evidence shall
9 include wage rate ~~and hours of labor~~ information for the contested trade or
10 occupation on at least 3 similar projects located in the city, village or town where the
11 proposed project is located and on which some work has been performed ~~within the~~
12 ~~previous 12 months~~ during the current survey period and which were considered by
13 the department in issuing its most recent compilation under par. (ar). The
14 department shall affirm or modify the determination within 15 days after the date
15 on which the department receives the request for review.

16 **SECTION 6.** 66.293 (3) (dm) of the statutes is amended to read:

17 66.293 (3) (dm) A reference to the prevailing wage rates ~~and prevailing hours~~
18 ~~of labor~~ determined by the department or a local governmental unit exempted under
19 sub. (6) and to the prevailing hours of labor shall be published in the notice issued
20 for the purpose of securing bids for the project. If any contract or subcontract for a
21 project of public works, including a highway, street or bridge construction project, is
22 entered into, the prevailing wage rates ~~and prevailing hours of labor~~ determined by
23 the department or exempted local governmental unit and the prevailing hours of
24 labor shall be physically incorporated into and made a part of the contract or
25 subcontract, except that for a minor subcontract, as determined by the department,

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1 the department shall prescribe by rule the method of notifying the minor
2 subcontractor of the prevailing wage rates and prevailing hours of labor applicable
3 to the minor subcontract. The prevailing wage rates and prevailing hours of labor
4 applicable to a contract or subcontract may not be changed during the time that the
5 contract or subcontract is in force. No person performing the work described in sub.
6 (4) may be paid less than the prevailing wage rate in the same or most similar trade
7 or occupation determined under this subsection; nor may he or she be permitted to
8 work a greater number of hours per day or per ~~calendar~~ week than the prevailing
9 hours of labor ~~determined under this subsection~~, unless he or she is paid for all hours
10 worked in excess of the prevailing hours of labor at a rate of at least 1.5 times his or
11 her hourly basic rate of pay.

12 **SECTION 7.** 66.293 (4) (a) (intro.) of the statutes is amended to read:

13 66.293 (4) (a) (intro.) All Subject to par. (b), all of the following employees shall
14 be paid the prevailing wage rate determined under sub. (3) and may not be permitted
15 to work a greater number of hours per day or per ~~calendar~~ week than the prevailing
16 hours of labor ~~determined under sub. (3)~~, unless they are paid for all hours worked
17 in excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly
18 basic rate of pay:

19 **SECTION 8.** 66.293 (4) (a) 1. of the statutes is amended to read:

20 66.293 (4) (a) 1. All laborers, workers, mechanics and truck drivers employed
21 on the site of a project that is subject to this section, ~~or employed to deliver mineral~~
22 ~~aggregate such as sand, gravel or stone that is immediately incorporated into the~~
23 ~~work, and not stockpiled or further transported by truck, to or from the site of a~~
24 ~~project that is subject to this section by depositing the material substantially in~~
25 ~~place, directly or through spreaders from the transporting vehicle, or employed to~~

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1 transport excavated material or spoil from and return to the site of a project that is
2 subject to this section.

3 **SECTION 9.** 66.293 (4) (b) of the statutes is renumbered 66.293 (4) (b) (intro.)
4 and amended to read:

5 66.293 (4) (b) (intro.) Notwithstanding par. (a) 1, a laborer, worker, mechanic
6 or truck driver who is regularly employed ~~in the processing, manufacturing or~~
7 ~~delivery of materials or products by or for to process, manufacture, pick up or deliver~~
8 materials or products from a commercial establishment that has a fixed place of
9 business from which the establishment regularly supplies processed or
10 manufactured materials or products is not entitled to receive the prevailing wage
11 rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic
12 rate of pay for all hours worked in excess of the prevailing hours of labor ~~determined~~
13 ~~under sub. (3).~~ unless any of the following applies:

14 **SECTION 10.** 66.293 (4) (b) 1. and 2. of the statutes are created to read:

15 66.293 (4) (b) 1. The laborer, worker, mechanic or truck driver is employed to
16 go to the source of mineral aggregate such as sand, gravel or stone that is to be
17 immediately incorporated into the work, and not stockpiled or further transported
18 by truck, pick up that mineral aggregate and deliver that mineral aggregate to the
19 site of a project that is subject to this section by depositing the material substantially
20 in place, directly or through spreaders from the transporting vehicle.

21 2. The laborer, worker, mechanic or truck driver is employed to go to the site
22 of a project that is subject to this section, pick up excavated material or spoil from
23 the site of the project and transport that excavated material or spoil away from the
24 site of the project.

25 **SECTION 11.** 66.293 (8) of the statutes is amended to read:

1 66.293 (8) POSTING. For the information of the employes working on the project,
2 the prevailing wage rates ~~and prevailing hours of labor~~ determined by the
3 department or exempted local governmental unit, the prevailing hours of labor and
4 the provisions of subs. (10) (a) and (11) (a) shall be kept posted by the local
5 governmental unit in at least one conspicuous and easily accessible place on the site
6 of the project or, if there is no common site on the project, at the place normally used
7 by the local governmental unit to post public notices.

8 **SECTION 12.** 66.293 (9) (c) of the statutes is amended to read:

9 66.293 (9) (c) Upon completion of a project and before receiving final payment
10 for his or her work on the project, each contractor shall file with the local
11 governmental unit authorizing the work an affidavit stating that the contractor has
12 complied fully with the requirements of this section and that the contractor has
13 received an affidavit under par. (b) from each of the contractor's agents and
14 subcontractors. A local governmental unit may not authorize a final payment until
15 such an affidavit is filed in proper form and order. If a local governmental unit
16 authorizes a final payment before such an affidavit is filed in proper form and order
17 or if the department determines, based on the greater weight of the credible evidence,
18 that any person performing the work specified in sub. (4) has been or may have been
19 paid less than the prevailing wage rate or less than 1.5 times the hourly basic rate
20 of pay for all hours worked in excess of the prevailing hours of labor and requests that
21 the local governmental unit withhold all or part of the final payment, but the local
22 governmental unit fails to do so, the local governmental unit is liable for all back
23 wages payable up to the amount of ~~that~~ the final payment.

24 **SECTION 13.** 66.293 (10) (a) of the statutes is amended to read:

1 66.293 (10) (a) Each contractor, subcontractor or agent thereof performing
2 work on a project that is subject to this section shall keep full and accurate records
3 clearly indicating the name and trade or occupation of every person performing the
4 work described in sub. (4) and an accurate record of the number of hours worked by
5 each of those persons and the actual wages paid therefor.

6 **SECTION 14.** 66.293 (10) (b) of the statutes is amended to read:

7 66.293 (10) (b) The department or the contracting local governmental unit may
8 demand and examine, and it shall be the duty of every contractor, subcontractor and
9 agent thereof to keep and furnish to the department or local governmental unit,
10 copies of payrolls and other records and information relating to the wages paid to
11 persons performing the work described in sub. (4) for work to which this section
12 applies. The department may inspect records in the manner provided in ~~chs. 103 to~~
13 ~~106 ch. 103~~. Every contractor, subcontractor or agent performing work on a project
14 that is subject to this section is subject to the requirements of ~~chs. 103 to 106 ch. 103~~
15 relating to the examination of records.

16 **SECTION 15.** 66.293 (10) (c) of the statutes is amended to read:

17 66.293 (10) (c) If requested by any person, the department shall inspect the
18 payroll records of any contractor, subcontractor or agent performing work on a
19 project that is subject to this section to ensure compliance with this section. If the
20 contractor, subcontractor or agent subject to the inspection is found to be in
21 compliance and if the person making the request is a person performing the work
22 specified in sub. (4), the department shall charge the person making the request the
23 actual cost of the inspection. If the contractor, subcontractor or agent subject to the
24 inspection is found to be in compliance and if the person making the request is not
25 a person performing the work specified in sub. (4), the department shall charge the

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1 person making the request \$250 or the actual cost of the inspection, whichever is
2 greater.

3 **SECTION 16.** 66.293 (10) (d) of the statutes is amended to read:

4 66.293 (10) (d) Section 103.005 (5) (f), (11), (12) and (13) applies to this section,
5 except that s. 103.005 (12) (a) does not apply to any person who fails to provide any
6 information to the department to assist the department in determining prevailing
7 wage rates ~~or prevailing hours of labor~~ under sub. (3) (am) or (ar). Section 111.322
8 (2m) applies to discharge ~~or~~ and other discriminatory acts arising in connection with
9 any proceeding under this section, including proceedings under sub. (11) (a).

10 **SECTION 17.** 66.293 (11) (a) of the statutes is amended to read:

11 66.293 (11) (a) Any contractor, subcontractor or agent thereof, who fails to pay
12 the prevailing wage rate determined by the department under sub. (3) or who pays
13 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
14 prevailing hours of labor ~~determined under sub. (3)~~, shall be liable to any affected
15 employe in the amount of his or her unpaid wages or his or her unpaid overtime
16 compensation and in an additional equal amount as liquidated damages. An action
17 to recover the liability may be maintained in any court of competent jurisdiction by
18 any employe for and in behalf of that employe and other employes similarly situated.
19 No employe may be a party plaintiff to any such action unless the employe consents
20 in writing to become such a party and the consent is filed in the court in which the
21 action is brought. Notwithstanding s. 814.04 (1), the court shall, in addition to any
22 judgment awarded to the plaintiff, allow reasonable attorney fees and costs to be paid
23 by the defendant.

24 **SECTION 18.** 66.293 (11) (b) 2. of the statutes is amended to read:

1 66.293 (11) (b) 2. Whoever induces any ~~individual~~ person who seeks to be or is
2 employed on any project that is subject to this section to give up, waive or return any
3 part of the wages to which the ~~individual~~ person is entitled under the contract
4 governing such project, or who reduces the hourly basic rate of pay normally paid to
5 ~~an employe~~ a person for work on a project that is not subject to this section during
6 a week in which the ~~employe~~ person works both on a project that is subject to this
7 section and on a project that is not subject to this section, by threat not to employ, by
8 threat of dismissal from such employment or by any other means is guilty of an
9 offense under s. 946.15 (1).

10 **SECTION 19.** 66.293 (11) (b) 4. of the statutes is amended to read:

11 66.293 (11) (b) 4. Whoever induces any ~~individual~~ person who seeks to be or is
12 employed on any project that is subject to this section to permit any part of the wages
13 to which the ~~individual~~ person is entitled under the contract governing such project
14 to be deducted from the ~~individual's~~ person's pay is guilty of an offense under s.
15 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from ~~an~~
16 ~~individual~~ a person who is working on a project that is subject to 40 USC 276c.

17 **SECTION 20.** 66.293 (11) (b) 6. of the statutes is amended to read:

18 66.293 (11) (b) 6. Subdivision 1. does not apply to any person who fails to
19 provide any information to the department to assist the department in determining
20 prevailing wage rates ~~or prevailing hours of labor~~ under sub. (3) (am) or (ar).

21 **SECTION 21.** 66.293 (12) (a) of the statutes is amended to read:

22 66.293 (12) (a) Except as provided under pars. (b) and (c), the department shall
23 notify any local governmental unit applying for a determination under sub. (3) and
24 any local governmental unit exempted under sub. (6) of the names of all persons
25 whom the department has found to have failed to pay the prevailing wage rate

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1 determined under sub. (3) or has found to have paid less than 1.5 times the hourly
2 basic rate of pay for all hours worked in excess of the prevailing hours of labor
3 ~~determined under sub. (3)~~ at any time in the preceding 3 years. The department shall
4 include with any such name the address of such person and shall specify when such
5 person failed to pay the prevailing wage rate and when such person paid less than
6 1.5 times the hourly basic rate of pay for all hours worked in excess of the prevailing
7 hours of labor. A local governmental unit may not award any contract to such person
8 unless otherwise recommended by the department or unless ~~at least~~ 3 years have
9 elapsed from the date the department issued its findings or the date of final
10 determination by a court of competent jurisdiction, whichever is later.

11 **SECTION 22.** 66.293 (12) (b) of the statutes is amended to read:

12 66.293 (12) (b) The department may not include in a notification under par. (a)
13 the name of any person on the basis of having let work to a person whom the
14 department has found to have failed to pay the prevailing wage rate determined
15 under sub. (3) or has found to have paid less than 1.5 times the hourly basic rate of
16 pay for all hours worked in excess of the prevailing hours of labor ~~determined under~~
17 ~~sub. (3)~~.

18 **SECTION 23.** 66.293 (12) (d) of the statutes is amended to read:

19 66.293 (12) (d) Any person submitting a bid or negotiating a contract on a
20 project that is subject to this section shall be required, on the date the person submits
21 the bid or negotiates the contract, to identify any construction business in which the
22 person, or a shareholder, officer or partner of the person, if the person is a business,
23 owns, or has owned at least a 25% interest on the date the person submits the bid
24 or negotiates the contract or at any other time within 3 years preceding the date the
25 person submits the bid or negotiates the contract, if the business has been found to

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1 have failed to pay the prevailing wage rate determined under sub. (3) or to have paid
2 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
3 prevailing hours of labor ~~determined under sub. (3).~~

4 **SECTION 24.** 103.49 (1) (c) (intro.) of the statutes is amended to read:

5 103.49 (1) (c) "Prevailing hours of labor" for any trade or occupation in any area
6 means ~~no more than~~ 10 hours per day ~~nor more than~~ and 40 hours per week and may
7 not include any hours worked on a Saturday or Sunday or on any of the following
8 holidays:

9 **SECTION 25.** 103.49 (1) (d) of the statutes is amended to read:

10 103.49 (1) (d) "Prevailing wage rate" for any trade or occupation engaged in the
11 erection, construction, remodeling, repairing or demolition of any project of public
12 works in any area means the hourly basic rate of pay, plus the hourly contribution
13 for health insurance benefits, vacation benefits, pension benefits and any other bona
14 fide economic benefit, paid directly or indirectly for a majority of the hours worked
15 in the trade or occupation on projects in the area, or if there is no rate at which a
16 majority of the hours worked in the trade or occupation on projects in the area is paid,
17 then the prevailing wage rate for any trade or occupation engaged in the erection,
18 construction, remodeling, repairing or demolition of any project of public works in
19 any area shall be the average hourly basic rate of pay, weighted by the number of
20 hours worked, plus the average hourly contribution, weighted by the number of
21 hours worked, for health insurance benefits, vacation benefits, pension benefits and
22 any other bona fide economic benefit, paid directly or indirectly for all hours worked
23 at the hourly basic rate of pay of the highest-paid 51% of hours worked in that trade
24 or occupation on projects in that area.

25 **SECTION 26.** 103.49 (2) of the statutes is amended to read:

1 103.49 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract hereafter
2 made for the erection, construction, remodeling, repairing or demolition of any
3 project of public works, except contracts for the construction or maintenance of public
4 highways, streets and bridges, to which the state, any state agency or the University
5 of Wisconsin Hospitals and Clinics Authority is a party shall contain a stipulation
6 that no person performing the work described in sub. (2m) may be permitted to work
7 a greater number of hours per day or per ~~calendar~~ week than the prevailing hours
8 of labor ~~determined under sub. (3)~~, except that any such person may be permitted or
9 required to work more than such prevailing hours of labor per day and per ~~calendar~~
10 week if he or she is paid for all hours worked in excess of the prevailing hours of labor
11 at a rate of at least 1.5 times his or her hourly basic rate of pay; nor may he or she
12 be paid less than the prevailing wage rate determined under sub. (3) in the same or
13 most similar trade or occupation in the area wherein such project of public works is
14 situated ~~determined under sub. (3)~~. A reference to the prevailing wage rates ~~and~~
15 ~~prevailing hours of labor~~ determined under sub. (3) and the prevailing hours of labor
16 shall be published in the notice issued for the purpose of securing bids for the project.
17 If any contract or subcontract for a project that is subject to this section is entered
18 into, the prevailing wage rates ~~and prevailing hours of labor~~ determined under sub.
19 (3) and the prevailing hours of labor shall be physically incorporated into and made
20 a part of the contract or subcontract, except that for a minor subcontract, as
21 determined by the department, the department shall prescribe by rule the method
22 of notifying the minor subcontractor of the prevailing wage rates and prevailing
23 hours of labor applicable to the minor subcontract. The prevailing wage rates and
24 prevailing hours of labor applicable to a contract or subcontract may not be changed
25 during the time that the contract or subcontract is in force.

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1 **SECTION 27.** 103.49 (2m) (a) (intro.) of the statutes is amended to read:

2 103.49 **(2m)** (a) (intro.) All Subject to par. (b), all of the following employes shall
3 be paid the prevailing wage rate determined under sub. (3) and may not be permitted
4 to work a greater number of hours per day or per calendar week than the prevailing
5 hours of labor ~~determined under sub. (3)~~, unless they are paid for all hours worked
6 in excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly
7 basic rate of pay:

8 **SECTION 28.** 103.49 (2m) (a) 1. of the statutes is amended to read:

9 103.49 **(2m)** (a) 1. All laborers, workers, mechanics and truck drivers employed
10 on the site of a project that is subject to this section, ~~or employed to deliver mineral~~
11 ~~aggregate such as sand, gravel or stone that is immediately incorporated into the~~
12 ~~work, and not stockpiled or further transported by truck, to or from the site of a~~
13 ~~project that is subject to this section by depositing the material substantially in~~
14 ~~place, directly or through spreaders from the transporting vehicle, or employed to~~
15 ~~transport excavated material or spoil from and return to the site of a project that is~~
16 ~~subject to this section.~~

17 **SECTION 29.** 103.49 (2m) (b) of the statutes is renumbered 103.49 (2m) (b)
18 (intro.) and amended to read:

19 103.49 **(2m)** (b) (intro.) Notwithstanding par. (a) 1., a laborer, worker, mechanic
20 or truck driver who is regularly employed ~~in the processing, manufacturing or~~
21 ~~delivery of materials or products by or for to process, manufacture, pick up or deliver~~
22 materials or products from a commercial establishment that has a fixed place of
23 business from which the establishment regularly supplies processed or
24 manufactured materials or products is not entitled to receive the prevailing wage
25 rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic

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SECTION 29

1 rate of pay for all hours worked in excess of the prevailing hours of labor ~~determined~~
2 ~~under sub. (3).~~ unless any of the following applies:

3 **SECTION 30.** 103.49 (2m) (b) 1. and 2. of the statutes are created to read:

4 103.49 (2m) (b) 1. The laborer, worker, mechanic or truck driver is employed
5 to go to the source of mineral aggregate such as sand, gravel or stone that is to be
6 immediately incorporated into the work, and not stockpiled or further transported
7 by truck, pick up that mineral aggregate and deliver that mineral aggregate to the
8 site of a project that is subject to this section by depositing the material substantially
9 in place, directly or through spreaders from the transporting vehicle.

10 2. The laborer, worker, mechanic or truck driver is employed to go to the site
11 of a project that is subject to this section, pick up excavated material or spoil from
12 the site of the project and transport that excavated material or spoil away from the
13 site of the project.

14 **SECTION 31.** 103.49 (3) (a) of the statutes is amended to read:

15 103.49 (3) (a) Before bids are asked for any work to which this section applies,
16 the state agency having the authority to prescribe the specifications shall apply to
17 the department to determine the prevailing wage rate ~~and prevailing hours of labor~~
18 for each trade or occupation required in the work under contemplation in the area
19 in which the work is to be done. The department shall ~~make~~ conduct such
20 investigations and hold such public hearings as may be necessary to define the trades
21 or occupations that are commonly employed on projects that are subject to this
22 section and to inform itself as to the prevailing wage rates ~~and prevailing hours of~~
23 ~~labor~~ in all areas of the state for those trades or occupations ~~with a view to~~
24 ascertaining in order to determine the prevailing wage rate ~~and prevailing hours of~~
25 ~~labor~~ for each such trade or occupation. The department shall issue its

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1 determination within 30 days after receiving the request and shall file the same with
2 the state agency applying therefor. For the information of the employees working on
3 the project, the prevailing wage rates and ~~prevailing hours of labor~~ determined by
4 the department, the prevailing hours of labor and the provisions of subs. (2) and (6m)
5 shall be kept posted by the state agency in at least one conspicuous and easily
6 accessible place on the site of the project.

7 **SECTION 32.** 103.49 (3) (am) of the statutes is amended to read:

8 103.49 (3) (am) The department shall, by January 1 of each year, compile the
9 prevailing wage rates and ~~the prevailing hours of labor~~ for each trade or occupation
10 in each area. The compilation shall, in addition to the current prevailing wage rates
11 and ~~prevailing hours of labor~~, include future prevailing wage rates and ~~prevailing~~
12 ~~hours of labor~~ when those prevailing wage rates and ~~prevailing hours of labor~~ can
13 be determined for any trade or occupation in any area and shall specify the effective
14 date of those future prevailing wage rates and ~~prevailing hours of labor~~. If a
15 construction project extends into more than one area there shall be but one standard
16 of prevailing wage rates and ~~prevailing hours of labor~~ for the entire project.

17 **SECTION 33.** 103.49 (3) (ar) of the statutes is amended to read:

18 103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am) ~~for~~
19 ~~building, residential or agricultural projects~~, the department may not use data from
20 projects that are subject to this section, s. 66.293 or 103.50 or 40 USC 276a. ~~In~~
21 ~~determining prevailing wage rates for projects involving the use of heavy equipment,~~
22 unless the department determines that there is insufficient wage data in the area
23 to determine those prevailing wage rates, in which case the department may use data
24 from projects that are subject to this section, s. 66.293 or 103.50 or 40 USC 276a.

25 **SECTION 34.** 103.49 (3) (b) of the statutes is amended to read:

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SECTION 34

1 103.49 (3) (b) Any person may request a recalculation of any portion of a an
2 initial determination within 30 days after the initial determination date if the person
3 submits evidence with the request showing that the prevailing wage rate ~~or~~
4 ~~prevailing hours of labor~~ for any given trade or occupation included in the initial
5 determination does not represent the prevailing wage rate ~~or prevailing hours of~~
6 ~~labor~~ for that trade or occupation in the area. Such evidence shall include wage rate
7 ~~and hours of labor~~ information for reflecting work performed by persons working in
8 the contested trade or occupation in the area ~~within the previous 12 months~~ during
9 the current survey period. The department shall affirm or modify the initial
10 determination within 15 days after the date on which the department receives the
11 request for recalculation.

12 **SECTION 35.** 103.49 (3) (c) of the statutes is amended to read:

13 103.49 (3) (c) In addition to the recalculation under par. (b), the state agency
14 that requested the determination under this subsection may request a review of any
15 portion of a determination within 30 days after the date of issuance of the
16 determination if the state agency submits evidence with the request showing that
17 the prevailing wage rate ~~or prevailing hours of labor~~ for any given trade or occupation
18 included in the determination does not represent the prevailing wage rate ~~or~~
19 ~~prevailing hours of labor~~ for that trade or occupation in the city, village or town in
20 which the proposed project is located. That evidence shall include wage rate ~~and~~
21 ~~hours of labor~~ information for the contested trade or occupation on at least 3 similar
22 projects located in the city, village or town where the proposed project is located on
23 which some work has been performed ~~within the previous 12 months~~ during the
24 current survey period and which were considered by the department in issuing its
25 most recent compilation under par. (am). The department shall affirm or modify the

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1 determination within 15 days after the date on which the department receives the
2 request for review.

3 **SECTION 36.** 103.49 (3g) of the statutes is amended to read:

4 103.49 (3g) NONAPPLICABILITY. This section does not apply to any single-trade
5 public works project for which the estimated project cost of completion is less than
6 \$30,000 or an amount determined by the department under s. 66.293 (5) or to any
7 multiple-trade public works project for which the estimated project cost of
8 completion is less than \$150,000 or an amount determined by the department under
9 s. 66.293 (5).

10 **SECTION 37.** 103.49 (4r) (c) of the statutes is amended to read:

11 103.49 (4r) (c) Upon completion of a project and before receiving final payment
12 for his or her work on the project, each contractor shall file with the state agency
13 authorizing the work an affidavit stating that the contractor has complied fully with
14 the requirements of this section and that the contractor has received an affidavit
15 under par. (b) from each of the contractor's agents and subcontractors. A state
16 agency may not authorize a final payment until such an affidavit is filed in proper
17 form and order. If a state agency authorizes a final payment before such an affidavit
18 is filed in proper form and order or if the department determines, based on the
19 greater weight of the credible evidence, that any person performing the work
20 specified in sub. (2m) has been or may have been paid less than the prevailing wage
21 rate or less than 1.5 times the hourly basic rate of pay for all hours worked in excess
22 of the prevailing hours of labor and requests that the state agency withhold all or part
23 of the final payment, but the state agency fails to do so, the state agency is liable for
24 all back wages payable up to the amount of the final payment.

25 **SECTION 38.** 103.49 (5) (a) of the statutes is amended to read:

1 103.49 (5) (a) Each contractor, subcontractor or agent thereof performing work
2 on a project that is subject to this section shall keep full and accurate records clearly
3 indicating the name and trade or occupation of every person performing the work
4 described in sub. (2m) and an accurate record of the number of hours worked by each
5 of those persons and the actual wages paid therefor.

6 **SECTION 39.** 103.49 (5) (b) of the statutes is amended to read:

7 103.49 (5) (b) It shall be the duty of the department to enforce this section. To
8 this end it may demand and examine, and it shall be the duty of every contractor,
9 subcontractor and agent thereof to keep and furnish to the department, copies of
10 payrolls and other records and information relating to the wages paid to persons
11 performing the work described in sub. (2m) for work to which this section applies.
12 The department may inspect records in the manner provided in this chapter ~~and chs.~~
13 ~~104 to 106~~. Every contractor, subcontractor or agent performing work on a project
14 that is subject to this section is subject to the requirements of this chapter ~~and chs.~~
15 ~~104 to 106~~ relating to the examination of records. Section 111.322 (2m) applies to
16 discharge and other discriminatory acts arising in connection with any proceeding
17 under this section.

18 **SECTION 40.** 103.49 (5) (c) of the statutes is amended to read:

19 103.49 (5) (c) If requested by any person, the department shall inspect the
20 payroll records of any contractor, subcontractor or agent performing work on a
21 project that is subject to this section to ensure compliance with this section. If the
22 contractor, subcontractor or agent subject to the inspection is found to be in
23 compliance and if the person making the request is a person performing the work
24 specified in sub. (2m), the department shall charge the person making the request
25 the actual cost of the inspection. If the contractor, subcontractor or agent subject to

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1 the inspection is found to be in compliance and if the person making the request is
2 not a person performing the work specified in sub. (2m), the department shall charge
3 the person making the request \$250 or the actual cost of the inspection, whichever
4 is greater.

5 **SECTION 41.** 103.49 (6m) (b) of the statutes is amended to read:

6 103.49 (6m) (b) Whoever induces any ~~individual~~ person who seeks to be or is
7 employed on any project that is subject to this section to give up, waive or return any
8 part of the wages to which the ~~individual~~ person is entitled under the contract
9 governing such project, or who reduces the hourly basic rate of pay normally paid to
10 ~~an employe~~ a person for work on a project that is not subject to this section during
11 a week in which the ~~employe~~ person works both on a project that is subject to this
12 section and on a project that is not subject to this section, by threat not to employ, by
13 threat of dismissal from such employment or by any other means is guilty of an
14 offense under s. 946.15 (1).

15 **SECTION 42.** 103.49 (6m) (d) of the statutes is amended to read:

16 103.49 (6m) (d) Whoever induces any ~~individual~~ person who seeks to be or is
17 employed on any project that is subject to this section to permit any part of the wages
18 to which the ~~individual~~ person is entitled under the contract governing such project
19 to be deducted from the ~~individual's~~ person's pay is guilty of an offense under s.
20 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from ~~an~~
21 ~~individual~~ a person who is working on a project that is subject to 40 USC 276c.

22 **SECTION 43.** 103.49 (6m) (f) of the statutes is amended to read:

23 103.49 (6m) (f) Paragraph (a) does not apply to any person who fails to provide
24 any information to the department to assist the department in determining
25 prevailing wage rates and ~~prevailing hours of labor~~ under sub. (3) (a) or (am).

ASSEMBLY BILL 409**SECTION 44**

1 **SECTION 44.** 103.49 (7) (a) of the statutes is amended to read:

2 103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall
3 distribute to all state agencies and to the University of Wisconsin Hospitals and
4 Clinics Authority a list of all persons whom the department has found to have failed
5 to pay the prevailing wage rate determined under sub. (3) or has found to have paid
6 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
7 prevailing hours of labor ~~determined under sub. (3)~~ at any time in the preceding 3
8 years. The department shall include with any such name the address of such person
9 and shall specify when such person failed to pay the prevailing wage rate and when
10 such person paid less than 1.5 times the hourly basic rate of pay for all hours worked
11 in excess of the prevailing hours of labor. A state agency or the University of
12 Wisconsin Hospitals and Clinics Authority may not award any contract to such
13 person unless otherwise recommended by the department or unless 3 years have
14 elapsed from the date the department issued its findings or date of final
15 determination by a court of competent jurisdiction, whichever is later.

16 **SECTION 45.** 103.49 (7) (b) of the statutes is amended to read:

17 103.49 (7) (b) The department may not include in a notification under par. (a)
18 the name of any person on the basis of having let work to a person whom the
19 department has found to have failed to pay the prevailing wage rate determined
20 under sub. (3) or has found to have paid less than 1.5 times the hourly basic rate of
21 pay for all hours worked in excess of the prevailing hours of labor ~~determined under~~
22 ~~sub. (3)~~.

23 **SECTION 46.** 103.49 (7) (d) of the statutes is amended to read:

24 103.49 (7) (d) Any person submitting a bid on a project that is subject to this
25 section shall be required, on the date the person submits the bid, to identify any

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1 construction business in which the person, or a shareholder, officer or partner of the
2 person, if the person is a business, owns, or has owned at least a 25% interest on the
3 date the person submits the bid or at any other time within 3 years preceding the date
4 the person submits the bid, if the business has been found to have failed to pay the
5 prevailing wage rate determined under sub. (3) or to have paid less than 1.5 times
6 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
7 labor ~~determined under sub. (3)~~.

8 **SECTION 47.** 103.50 (2) of the statutes is amended to read:

9 103.50 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. No person performing
10 the work described in sub. (2m) in the employ of a contractor, subcontractor, agent
11 or other person performing any work on a project under a contract based on bids as
12 provided in s. 84.06 (2) to which the state is a party for the construction or
13 improvement of any highway may be permitted to work a ~~longer~~ greater number of
14 hours per day or per ~~calendar~~ week than the prevailing hours of labor ~~determined~~
15 ~~under sub. (3)~~; nor may he or she be paid a lesser rate of wages than the prevailing
16 wage rate in the area in which the work is to be done determined under sub. (3);
17 except that any such person may be permitted or required to work more than such
18 prevailing hours of labor per day and per ~~calendar~~ week if he or she is paid for all
19 hours worked in excess of the prevailing hours of labor at a rate of at least 1.5 times
20 his or her hourly basic rate of pay.

21 **SECTION 48.** 103.50 (2m) (a) (intro.) of the statutes is amended to read:

22 103.50 (2m) (a) (intro.) ~~All~~ Subject to par. (b), all of the following employes shall
23 be paid the prevailing wage rate determined under sub. (3) and may not be permitted
24 to work a greater number of hours per day or per ~~calendar~~ week than the prevailing
25 hours of labor ~~determined under sub. (3)~~, unless they are paid for all hours worked

ASSEMBLY BILL 409**SECTION 48**

1 in excess of the prevailing hours of labor at a rate of at least 1.5 times their hourly
2 basic rate of pay:

3 **SECTION 49.** 103.50 (2m) (a) 1. of the statutes is amended to read:

4 103.50 (2m) (a) 1. All laborers, workers, mechanics and truck drivers employed
5 on the site of a project that is subject to this section, ~~or employed to deliver mineral~~
6 ~~aggregate such as sand, gravel or stone that is immediately incorporated into the~~
7 ~~work, and not stockpiled or further transported by truck, to or from the site of a~~
8 ~~project that is subject to this section by depositing the material substantially in~~
9 ~~place, directly or through spreaders from the transporting vehicle, or employed to~~
10 ~~transport excavated material or spoil from and return to the site of a project that is~~
11 ~~subject to this section.~~

12 **SECTION 50.** 103.50 (2m) (b) of the statutes is renumbered 103.50 (2m) (b)
13 (intro.) and amended to read:

14 103.50 (2m) (b) (intro.) Notwithstanding par. (a) 1., a laborer, worker, mechanic
15 or truck driver who is regularly employed ~~in the processing, manufacturing or~~
16 ~~delivery of materials or products by or for to process, manufacture, pick up or deliver~~
17 materials or products from a commercial establishment that has a fixed place of
18 business from which the establishment regularly supplies processed or
19 manufactured materials or products is not entitled to receive the prevailing wage
20 rate determined under sub. (3) or to receive at least 1.5 times his or her hourly basic
21 rate of pay for all hours worked in excess of the prevailing hours of labor ~~determined~~
22 ~~under sub. (3).~~ unless any of the following applies:

23 **SECTION 51.** 103.50 (2m) (b) 1. and 2. of the statutes are created to read:

24 103.50 (2m) (b) 1. The laborer, worker, mechanic or truck driver is employed
25 to go to the source of mineral aggregate such as sand, gravel or stone that is to be

1 immediately incorporated into the work, and not stockpiled or further transported
2 by truck, pick up that mineral aggregate and deliver that mineral aggregate to the
3 site of a project that is subject to this section by depositing the material substantially
4 in place, directly or through spreaders from the transporting vehicle.

5 2. The laborer, worker, mechanic or truck driver is employed to go to the site
6 of a project that is subject to this section, pick up excavated material or spoil from
7 the site of the project and transport that excavated material or spoil away from the
8 site of the project and return to the site of the project.

9 **SECTION 52.** 103.50 (3) of the statutes is amended to read:

10 103.50 (3) INVESTIGATIONS; DETERMINATIONS. The department shall conduct
11 investigations and hold public hearings necessary to define the trades or occupations
12 that are commonly employed in the highway construction industry and to inform
13 itself as to the prevailing wage rates and ~~prevailing hours of labor~~ in all areas of the
14 state for those trades or occupations, in order to ascertain and determine the
15 prevailing wage rates and ~~prevailing hours of labor~~ accordingly.

16 **SECTION 53.** 103.50 (4) of the statutes is amended to read:

17 103.50 (4) CERTIFICATION OF PREVAILING WAGE RATES AND ~~HOURS OF LABOR~~. The
18 department of workforce development shall, by May 1 of each ~~calendar~~ year, certify
19 to the department of transportation the prevailing wage rates and ~~the prevailing~~
20 ~~hours of labor~~ in each area for all trades or occupations commonly employed in the
21 highway construction industry. The certification shall, in addition to the current
22 prevailing wage rates and ~~prevailing hours of labor~~, include future prevailing wage
23 rates and ~~prevailing hours of labor~~ when such prevailing wage rates and ~~prevailing~~
24 ~~hours of labor~~ can be determined for any such trade or occupation in any area and
25 shall specify the effective date of those future prevailing wage rates and ~~prevailing~~

ASSEMBLY BILL 409**SECTION 53**

1 ~~hours of labor.~~ If a construction project extends into more than one area there shall
2 be but one standard of prevailing wage rates ~~and prevailing hours of labor~~ for the
3 entire project.

4 **SECTION 54.** 103.50 (5) of the statutes is amended to read:

5 103.50 (5) APPEALS TO GOVERNOR. If the department of transportation considers
6 any determination of the department of workforce development as to the prevailing
7 wage rates ~~and the prevailing hours of labor~~ in an area to have been incorrect, it may
8 appeal to the governor, whose determination shall be final.

9 **SECTION 55.** 103.50 (6) of the statutes is amended to read:

10 103.50 (6) CONTENTS OF CONTRACTS. A reference to the prevailing wage rates
11 ~~and the prevailing hours of labor~~ determined under sub. (3) and the prevailing hours
12 of labor shall be published in the notice issued for the purpose of securing bids for a
13 project. If any contract or subcontract for a project that is subject to this section is
14 entered into, the prevailing wage rates ~~and prevailing hours of labor~~ determined
15 under sub. (3) and the prevailing hours of labor shall be physically incorporated into
16 and made a part of the contract or subcontract, except that for a minor subcontract,
17 as determined by the department of workforce development, that department shall
18 prescribe by rule the method of notifying the minor subcontractor of the prevailing
19 wage rates and prevailing hours of labor applicable to the minor subcontract. The
20 prevailing wage rates and prevailing hours of labor applicable to a contract or
21 subcontract may not be changed during the time that the contract or subcontract is
22 in force. For the information of the employees working on the project, the prevailing
23 wage rates ~~and prevailing hours of labor~~ determined by the department, the
24 prevailing hours of labor and the provisions of subs. (2) and (7) shall be kept posted

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1 by the department of transportation in at least one conspicuous and easily accessible
2 place on the site of the project.

3 **SECTION 56.** 103.50 (7) (b) of the statutes is amended to read:

4 103.50 (7) (b) Whoever induces any ~~individual~~ person who seeks to be or is
5 employed on any project that is subject to this section to give up, waive or return any
6 part of the wages to which the ~~individual~~ person is entitled under the contract
7 governing such project, or who reduces the hourly basic rate of pay normally paid to
8 ~~an employee a~~ person for work on a project that is not subject to this section during
9 a week in which the ~~employee~~ person works both on a project that is subject to this
10 section and on a project that is not subject to this section, by threat not to employ, by
11 threat of dismissal from such employment or by any other means is guilty of an
12 offense under s. 946.15 (1).

13 **SECTION 57.** 103.50 (7) (d) of the statutes is amended to read:

14 103.50 (7) (d) Whoever induces any ~~individual~~ person who seeks to be or is
15 employed on any project that is subject to this section to permit any part of the wages
16 to which the ~~individual~~ person is entitled under the contract governing such project
17 to be deducted from the ~~individual's~~ person's pay is guilty of an offense under s.
18 946.15 (3), unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from ~~an~~
19 ~~individual a~~ person who is working on a project that is subject to 40 USC 276c.

20 **SECTION 58.** 103.50 (7) (e) of the statutes is amended to read:

21 103.50 (7) (e) Any person employed on a project that is subject to this section
22 who knowingly permits any part of the wages to which he or she is entitled under the
23 contract governing such project to be deducted from his or her pay is guilty of an
24 offense under s. 946.15 (4), unless the deduction would be permitted under 29 CFR

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SECTION 58

1 3.5 or 3.6 from ~~an individual~~ a person who is working on a project that is subject to
2 40 USC 276c.

3 **SECTION 59.** 103.50 (7) (f) of the statutes is amended to read:

4 103.50 (7) (f) Paragraph (a) does not apply to any person who fails to provide
5 any information to the department to assist the department in determining
6 prevailing wage rates ~~or prevailing hours of labor~~ under sub. (3) or (4).

7 **SECTION 60.** 103.50 (8) of the statutes is amended to read:

8 103.50 (8) ENFORCEMENT AND PROSECUTION. The department of transportation
9 shall require adherence to subs. (2), (2m) and (6). The department of transportation
10 may demand and examine, and it shall be the duty of every contractor, subcontractor
11 and agent thereof to keep and furnish to the department of transportation, copies of
12 payrolls and other records and information relating to ~~the wages paid to persons~~
13 ~~described in sub. (2m) for work to which~~ compliance with this section applies. Upon
14 request of the department of transportation or upon complaint of alleged violation,
15 the district attorney of the county in which the work is located shall make such
16 investigation as necessary and prosecute violations in a court of competent
17 jurisdiction. Section 111.322 (2m) applies to discharge and other discriminatory acts
18 arising in connection with any proceeding under this section.

19 **SECTION 61.** 227.01 (13) (t) of the statutes is amended to read:

20 227.01 (13) (t) Ascertains and determines prevailing wage rates ~~and prevailing~~
21 ~~hours of labor~~ under ss. 66.293, 103.49 and 103.50, except that any action or inaction
22 which ascertains and determines prevailing wage rates ~~and prevailing hours of labor~~
23 under ss. 66.293, 103.49 and 103.50 is subject to judicial review under s. 227.40.

24 (END)